

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated February 22, 2008 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses each of the prior art rejections (§§ 102(e) and 103(a)), each of which is based upon the teachings of U.S. Publication No. 2005/0144641 by Lewis (hereinafter “Lewis”), because Lewis does not teach or suggest each of the claimed limitations. For example, Lewis fails to teach sending a transaction signal with an object identification to a database of at least one object through a radio system, as claimed in each of the independent claims. It appears that the advertising data discussed in paragraphs [0179]-[0189] is asserted as corresponding to the claimed object identification of an object. While Lewis teaches that a user may access (*e.g.*, rent or purchase) material using menus (paragraph [0092]), there is no indication that the user sends received advertising data (asserted as corresponding to the claimed object identification) with a transaction signal in order to do so. No connection has been identified in Lewis between received advertising data and a request by a user for a data product. Further, Lewis makes no mention of sending the claimed transaction signal through a radio system. Thus, Lewis fails to at least teach sending a transaction signal with the object identification through a radio system, as claimed.

With particular respect to the § 102(e) rejection, Applicant notes that to anticipate a claim the asserted reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35

U.S.C. § 102. Applicant respectfully submits that Lewis does not teach every element of at least independent Claims 1 and 21 in the requisite detail and therefore fails to anticipate at least Claims 1-10, 21, 22, 24 and 25. Applicant accordingly requests that the rejection be withdrawn.

In addition, Lewis has not been shown to teach use of a broadcast system and a radio system together as claimed. Although Lewis may teach broadcasting a media stream via a broadcast system, there is no discussion or suggestion of sending a request for an object associated with the media stream via a radio system or delivering the requested object via the radio system. Without a presentation of correspondence to each of the claimed limitations, the rejections are improper and should not be maintained.

Dependent Claims 2-10, 22, 24 and 25 depend from independent Claims 1 and 21, and also stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Lewis. While Applicant does not acquiesce to the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of the independent claims and any intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2-10, 22, 24 and 25 is improper. Applicant accordingly requests that the § 102(e) rejection be withdrawn.

Regarding the § 103(a) rejection of Claims 5, 11-20 and 23, Applicant further traverses because the asserted modifications of Lewis do not overcome the above-discussed deficiencies in Lewis. For example, none of the asserted modifications to the broadcast system or alleged radio system of Lewis provide correspondence to the claimed sending of a transaction signal with the object identification through a radio system. As the asserted modifications to Lewis fail to provide correspondence to limitations absent from Lewis, the modified teachings of Lewis still fail to correspond to each of the claimed limitations thereby rendering the rejection of Claims 5, 11-20 and 23 improper. Applicant accordingly requests that the rejection be withdrawn.

Further, Applicant traverses the § 103(a) rejection because the taking of Official Notice appears to rely upon an unidentified reference. The assertions that it “would have been obvious to incorporate in Wells” at pages seven and eight appear to refer to a reference (Wells) not identified in the Office Action. Without proper identification of the asserted teachings, Applicant cannot ascertain the propriety of the rejection. If this rejection is to be maintained, Applicant requests clarification of the asserted teachings relied upon in forming the rejection. Without further information, Applicant traverses the rejection.

It should also be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner’s characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.155US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

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By: 

Erin M. Nichols
Reg. No. 57,125